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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,641	07/14/2003	Steven Robert Hetzler	ARC9-2003-0014-US1	9657
55508 7590 10/17/2008 JOSEPH P. CURTIN, L.L.C. 1469 N.W. MORGAN LANE PORTLAND, OR 97229-5291				
EXAMINER LAMARRE, GUY J				
ART UNIT 2112		PAPER NUMBER		
MAIL DATE 10/17/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/619,641

Applicant(s)

HETZLER ET AL.

Examiner

Guy J. Lamarre

Art Unit

2112

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-144 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-144 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 07 July 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

FINAL OFFICE ACTION

* **Claims 1-23, 46-95**, and pursuant to 37 C.F.R. § 1.141 previously withdrawn **Claims 24-45 and 96-144** remain pending.

* The objections of record to the specification are withdrawn in response to Applicants' amendment.

* The rejections of record to the claims are maintained in response to Applicants' amendment because, e.g., the nexus between k and m remains undefined in the Claims as Applicants merely refers to the specification without positively providing clarifying claim language. Applicants are reminded that: 'Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).'

Claim Objections

* The amended claims recite m and k as comprising integers instead of being integers. Same amended claims also recite code comprising *distance d* instead of having *distance d*. Correction is required.

Claim Rejections - 35 USC § 112

.1 **Claims 1-144** are rejected under the second paragraph of 35 U.S.C. 112 for it is unclear to the Examiner, e.g., in **Claims 1, 46, 73** and intervening claims what the relationship is between 'k' and 'm' or what values variables 'k' and 'm' take on. For example, it is not clear how the memory access operations are effected when

$k=2$ and $m=2$

because no linear or non-linear relationship is established between k and m .

It is also unclear to the Examiner what is meant by '*each stripe having a plurality of elements, each stripe forming a correcting code, the correcting code comprising one of an*

*erasure correcting code comprising a minimum Hamming distance d and an error correcting code comprising a minimum Hamming distance d , and each respective element of a stripe being stored on a different storage unit; selecting an element in a **donor stripe** when a difference between a minimum distance of the donor stripe and a minimum distance of a recipient stripe is greater or equal to 2 and when an element of the **recipient stripe** has been lost, the selected element being stored on a storage unit comprising no elements of the recipient stripe; and increasing the minimum distance of the recipient stripe by rebuilding the lost element of the recipient stripe on the selected element of the **donor stripe**'*

in **Claims 1, 46, 73** because it is not clear whether the donor/recipient stripes are from the same k stripes or how minimum distance is increased by rebuilding a lost element.

It is also *unclear* to the Examiner how error tolerance is increased in **Claims 1, 46, 73** and intervening claims.

2. **Claim 2, 49, 74** fail to further limit the independent Claims said **Claim 2, 49, 74** depend on and therefore are rejected under the 4th paragraph of 35 U.S.C. § 112.
3. **Claims 1, 46, 73** and intervening claims would be allowable if amended to overcome instant rejections.
4. **Claims 24-45 and 96-144** shall be amended in manner similar to amendment of **Claims 1, 46, 73** and intervening claims in response to instant office action.
5. Applicants are invited to call the Examiner for discussing potential claim language that will expedite passage of instant application to issue.

CONCLUSION

* Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

* Any inquiry concerning this communication or earlier communications from the examiner should be directed to Guy J. Lamarre, P.E., whose telephone number is (571) 272-3826. The examiner can normally be reached on Monday to Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jacques Louis-Jacques, can be reached at (571) 272-6962.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-3609.

Information regarding the status of an application may also be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Guy J Lamarre/
Primary Examiner, Art Unit 2112
